

REMARKS/ARGUMENTS

Claims 13 and 14 have been rejected under 35 U.S.C. § 112, second paragraph, as being vague and indefinite; Claims 13 and 14 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Haynes et al; Claims 13 and 14 have been rejected under 35 U.S.C. § 103 as being unpatentable over Diersch (FR2751118) in view of Haynes. Claims 13 and 14 remain active.

Considering first then the rejection of Claims 13 and 14 under 35 U.S.C. § 112, second paragraph, please note that appropriate amendments have now been made to Claim 13 for compliance with U.S. patent practice and procedure, including 35 U.S.C. § 112, second paragraph. Accordingly, favorable reconsideration of Claims 13 and 14 is believed to be merited.

Next, considering the rejection of Claims 13 and 14 under 35 U.S.C. § 102 as being anticipated by Haynes et al and the rejection of Claims 13 and 14 under 35 U.S.C. § 103 as being unpatentable over Diersch in view of Haynes et al, it is to be noted that the claims have now been amended to claim that the powder of aluminum or of an aluminum alloy has an average particle size of 50-120 μm . According to the present invention, the diameter of the aluminum or aluminum alloy is between 5-150 μm , preferably 50-100 μm , as described at page 17 of the specification. Haynes et al merely discloses using Al-Mg-Si alloy particles having a diameter of 6-38 μm and the Haynes et al reference alone, or in combination with Diersch, fails to teach that the absorbing rod comprises a solid rod and also fails to disclose the features recited in the claims as now amended.

Applicants particularly note that page 17, line 15 to page 18, line 1, emphasizes the importance of the above-noted limitations by stating that:

If the diameter is less than 5 μm , then the particles come together and form a mass. Further, if the diameter is less than 5 μm then it is difficult to use the atomization methods (it is required to separate the minute powder and the coast

increases). On the other hand, if the diameter is greater than 150 μm , then again there is a limitation on the use of the atomization method, and it becomes difficult to mix the material with the minute addition particles. The most preferable diameter is 50 to 120 μm . The cooling speed should be above 102 degree centigrade per second. Most preferably, the cooling speed should be above 103 degree centigrade per second.

As can thus be appreciated, the claim limitations in accordance with the present invention are of importance and, moreover, are not shown by any of the references of record.

Applicants further submit that due to the different structure and functioning of Haynes et al as compared with Diersch et al, such references would not be obviously combinable.

However, even if attempted to be combined, such would not result in Applicants' claimed invention.

In view of the foregoing, an early and favorable Office Action is believed to be in order and the same is hereby respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
James D. Hamilton
Registration No. 28,421
Attorneys of Record

Customer Number
22850

Fax: (703) 413-2220
(OSMMN 08/03)
GJM/JDH/cja

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